

El Paso County - 243rd District Court

Filed 5/24/2017 2:01:56 PM

Norma Favela Barceleau
District Clerk
El Paso County
2017DCV1766

VENACIO SANTILLAN GONZALEZ,

Plaintiff,

vs.

HECTOR RENTERIA and
TRANSPORTES JYR A&M INTERNACIONAL,

Defendants.

§
§
§
§
§
§
§
§
§
§

Cause No. 2017 _____

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW VENACIO SANTILLAN GONZALEZ, Individually (hereinafter called "Plaintiff"), complaining of HECTOR RENTERIA and TRANSPORTES JYR A&M INTERNACIONAL (hereinafter called "Defendant's") filing this Original Petition, and would show the Court and/or Jury the following:

I.

Plaintiffs are residents of El Paso County, Texas. The last three number of Venacio Santillan Gonzalez' Social Security numbers are 611.

II.

Defendant HECTOR RENTERIA is a resident of Juarez, Mexico who is doing business in the State of Texas by contracting by mail or otherwise with a Texas resident and either party is to perform the contract in whole or in part in this state, by committing a tort in whole or in part in the State of Texas or by recruiting Texas residence, directly or through an intermediary located in the State of Texas, for employment inside or outside this state. Defendant is not required to designate an agent for service of process in The State of Texas, therefore, the Secretary of State is the agent for service of process on such non resident. Service of process may be had in accordance with the Texas Long Arm Statute by serving the Secretary of State, Austin, Texas, who shall then forward a copy of this petition upon Defendant, TRANSPORTES JYR A&M INTERNACIONAL, Manuel Cardona

619 NTE, CD Juarez, CH 32000 and/or where ever he may be found.

Defendant, TRANSPORTES JYR A&M INTERNACIONAL, is doing business in the State of Texas by contracting by mail or otherwise with a Texas resident and either party is to perform the contract in whole or in part in this state, by committing a tort in whole or in part in the State of Texas or by recruiting Texas residence, directly or through an intermediary located in the State of Texas, for employment inside or outside this state. Defendant is not required to designate an agent for service of process in The State of Texas, therefore, the Secretary of State is the agent for service of process on such non resident. Service of process may be had in accordance with the Texas Long Arm Statute by serving the Secretary of State, Austin, Texas, who shall then forward a copy of this petition upon Defendant, TRANSPORTES JYR A&M INTERNACIONAL, Manuel Cardona 619 NTE , CD Juarez, CH 32000 and/or where ever they may be found.

III.

Discovery will be conducted in Level III.

IV. NEGLIGENCE

Plaintiffs allege that the injuries and damages were proximately caused in part by the negligence of Defendant TRANSPORTES JYR A&M INTERNACIONAL and its employee, Hector Renteria, in the course of his employment. Plaintiff's damages were proximately caused by one or more of the following alternative theories of negligence on the part of Defendant and Defendant's employee in the course of his employment with Defendant:

1. Unsafe driving.
2. Driving while fatigued or tired.
3. Operating a commercial motor vehicle while the driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness, or any other cause, as to make it unsafe for him to begin or continue to operate the commercial motor vehicle. (FMCSR § 392.3)
4. Requiring or permitting a driver to operate a commercial motor vehicle while the driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness, or any other cause, as to make it unsafe for him/her to begin or continue to operate the commercial motor vehicle. (FMCSR § 392.3)
5. Failing to require observance of driver regulations. (FMCSR § 390.11)

6. Failing to ensure that only medically qualified drivers are operating the commercial motor vehicle in interstate commerce (FMCSR § 391.41)
7. Failing to determine if an injury or illness rendered the driver medically unqualified. (§ 391.43)
8. Violating FMCSA Regulations.
9. Failure to comply with the Federal Motor Carrier Safety Regulations (FMCSR).
10. Failing to keep a safe lookout.
11. Driving with health condition which could cause unsafe driving.
12. Driving while required to take medication which could impair driving.
13. Co-driver's operation of an 18 wheeler while fatigued.
14. Negligent co-worker operation of a commercial vehicle in the course of employment with Defendant TRANSPORTES JYR A&M INTERNACIONAL.
15. Failure to furnish Hector Renteria with a safe place to work.
16. Failure to furnish safe adequate, necessary and suitable tools, appliances and equipment.
17. Failure to supply adequate and reasonably competent fellow employees in the safe operation of a commercial truck.
18. Failure to establish and enforce safety rules and regulations.
19. Failure to safely educate, instruct and supervise in the performance of employee's duties.
20. Failing to supervise.
21. Requiring driver Hector Renteria to perform work beyond the defined job description, including team driving over many days over many miles during the danger zone.
22. Permitting operation of a commercial vehicle by a person with health condition without confirming the driver was fit to drive, under the circumstances Defendant intended him to work.
23. Failing to establish and enforce a fatigue management program.
24. Failure to teach, train and supervise its drivers on safe driving during the "danger zone" (midnight to 6:00 a.m.).

One or more of the foregoing acts or omissions of Defendant constituted negligence which was a proximate cause of the injuries to Plaintiff VENACIO SANTILLAN GONZALEZ which are made the basis of this cause of action. Further, one or more of the foregoing acts or omissions was a proximate cause of the aggravated, enhanced or additional injuries and damages to Plaintiff that would not have been sustained but for the one or more of the foregoing acts or omissions.

V.

Defendant owed a reasonable degree of care to Plaintiff. Plaintiff alleges that the incident and Plaintiff's damages were proximately caused by the negligence of Defendant HECTOR RENTERIA arising from one or more of the following alternative theories of negligence:

1. Failure to maintain a safe distance between two vehicles in violation of Tex. Transp.

Code Ann §545.062(a).

3. Driving reckless in violation of Tex. Transp. Code Ann. §545.401.
4. Driving at a speed greater than is reasonable in violation of Tex. Transp. Code Ann. §545.351.
5. Failure to use due care in operating a motor vehicle.
6. Failure to keep a proper lookout in violation of Tex. Transp. Code Ann §545.351.
8. Failure to safely apply brakes to avoid an incident.
9. Failure to turn to the left or right to avoid a collision.
10. Failure to honk and give adequate warning of the impending danger.
11. Failure to warn of his approach.
12. Failure to pay attention.
13. Failure to take proper evasive action.
14. Failure to use due care and caution under the circumstances then existing.
15. Failure to use due care in operating a motor vehicle. (Transportation Code §545.351)

Each of which acts or omissions was other than what a reasonable and prudent person would have been doing under the same or similar circumstances. Each of which acts or omissions was a proximate cause of Plaintiffs' damages.

VI.

Plaintiff VENACIO SANTILLAN GONZALEZ has sustained injuries and damages (past and future) as a result of the accident made the basis of this suit, including, but not limited to the following:

- (a) Pecuniary loss, including the loss of the care, maintenance, support, services, advice, counsel, guidance and reasonable contributions of pecuniary value.
- (b) Loss of Plaintiff's society, companionship, love, affection, comfort, protection and attention.
- (c) Loss of household services.
- (d) Loss of consortium.

(e) Mental anguish.

By reason of the foregoing, Plaintiff VENACIO SANTILLAN GONZALEZ has been damaged in an amount within the jurisdictional limits of the Court and requests monetary damages over \$1,000,000.

VII.

Plaintiff would show that as a result of the occurrence, suffered injuries to his body. Plaintiff VENACIO SANTILLAN GONZALEZ suffered damages, including but not limited to:

- (a) Conscious pain, suffering and excruciating physical agony;
- (b) Medical, hospital and nursing expenses;

VENACIO SANTILLAN GONZALEZ sustained bodily injuries. By reason of the foregoing, Plaintiff VENACIO SANTILLAN GONZALEZ has been damaged in an amount within the jurisdictional limits of the Court and requests monetary damages over \$1,000,000.

VIII.

Plaintiff would show that the acts and omissions of Defendant as set forth in were in heedless and reckless disregard for the rights and safety of VENACIO SANTILLAN GONZALEZ and showed actual conscious indifference and conscious disregard for the rights and safety of Plaintiff so as to constitute gross negligence being a proximate cause of the occurrence and the resulting damages and injuries sustained by Plaintiff. Plaintiff is entitled to punitive damages.

IX.

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendants are requested to disclose the information and material described in Rule 194.2 within fifty one (51) days of the service of this request.

X.

Plaintiff respectfully requests trial by jury of the issues in this case.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that the Defendant's be cited to appear and answer, and that upon final trial, Plaintiff have judgment against Defendant's for

all relief requested, for pre-judgment interest, post judgment interest, for costs of this suit, punitive damages and for such other and further relief, general and special, at law or in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,

VICTOR J. BIEGANOWSKI, PC.

Attorneys for Plaintiff

609 Myrtle Avenue, Suite 100

El Paso, Texas 79901

(915) 542-1883

(915) 542-3500 (Facsimile)

victorbieganowski@ellisandortega.com



VICTOR J. BIEGANOWSKI

State Bar No. 02301100

RANDOLPH J. ORTEGA

Attorneys for Plaintiff

State Bar No. 00795570

609 Myrtle Avenue, Suite 100

El Paso, Texas 79901

(915) 542-1883

(915) 542-3500 (Facsimile)

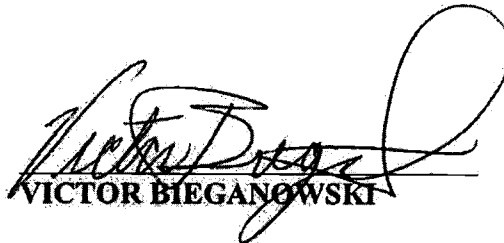
randyortega@ellisandortega.com

CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2017 I electronically filed the foregoing with the Clerk of the Court using an E-Filing Service Provider which will send notification of such filing to the following:

HECTOR RENTERIA
TRANSPORTES JYR A&M INTERNACIONAL
Manuel Cardona 619 NTE
CD Juarez, CH 32000
By and through:
Secretary of State
1019 Brazos
Austin, Texas 78701

TRANSPORTES JYR A&M INTERNACIONAL
Manuel Cardona 619 NTE
CD Juarez, CH 32000
By and Through:
Secretary of State
1019 Brazos
Austin, Texas 78701


VICTOR BIEGANOWSKI